



FACT SHEET



VERIFICATION AND COMPLIANCE WITH INTERNATIONAL PROHIBITIONS RELATING TO BIOLOGICAL WEAPONS

The Geneva Protocol of 1925 and the Biological Weapons Convention of 1972 (BWC) are at the center of the international community's formal efforts to eliminate the possibility once and for all that biological substances might be used deliberately to kill people, destroy livestock and devastate crops.

The former bans the use in war of biological weapons (BW) while the latter prohibits the development, production, stockpiling, acquisition, or retention of: a) microbial or other biological agents or toxins, of types and in quantities that have no justification for prophylactic, protective, or peaceful purposes, and; b) weapons, equipment, or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Achieving full and strict compliance with the BWC and the ban on use is particularly important in an era in which the capability to produce and employ BW has spread beyond state actors to terrorist groups and even individuals. The BWC, together with the Geneva Protocol, have established the norm against biological weapons. They are key tools in our strategy to reduce the threat of biological weapons to the U.S. and globally.

Toward this end, all States Party to the BWC have agreed, in the period leading to the scheduled Sixth BWC Review Conference in 2006, to discuss, and promote common

understanding and effective action on a number of practical items. These items include: establishing national measures to implement the BWC, including legislation; enhancing national practices to ensure security in the handling of deadly pathogens (bio-security); enhancing capabilities for responding to, investigating, and mitigating the effects of suspicious outbreaks of disease and/or allegations of use; strengthening disease surveillance; and discussing codes of conduct for scientists. This three year process focusing on practical measures to address the BW threat has, so far, proved to be constructive. A wide range of information has been exchanged, there is increased awareness of available means to combat effectively the BW threat, and States Party have undertaken some of the corresponding important national steps discussed.

Verification of Compliance

The BWC does not establish a formal international mechanism for verifying compliance. The fact that a formal mechanism was not established is not a problem, as some assert. There are significant challenges in monitoring and verifying compliance with the BWC, and the United States has long held that no formal mechanism or set of international procedures would resolve these challenges and indeed, such mechanisms or procedures could make detection and assessment of

noncompliance more difficult. The problem stems from the nature of biology and the fact that distinguishing the prohibited from the permissible often hinges on intent. The occurrence of natural diseases and the fact that biotechnology equipment and materials can be used interchangeably for peaceful or nefarious purposes, and the ease and speed by which illegal activities can be concealed make verification of compliance with the BWC an especially difficult challenge.

While international mechanisms and procedures will not contribute to the verifiability of the BWC, vigorous, focused analysis of certain types of evidence by countries using their own national means and methods can support their efforts to reach national conclusions regarding compliance or noncompliance by other States Party. The ability of states to reach such national judgments is a different question from agreeing that any standard set of procedures could verify the BWC.

With regard to reaching national judgments on compliance, not only the existence, but also the intent of any country's biological program, must be considered. Making a judgment about intent is, however, difficult given the dual-use nature of most biotechnology equipment, facilities, and activities. Domestic resources, open-source literature, and the information provided in Confidence Building Measure (CBM) Declarations to other States Party all provide data points that can contribute to an assessment of a state's activities and intent. What States and their leaders do and say is another important element in assessing intent regarding biological weapons.

The BWC itself provides relevant tools for addressing non-compliance concerns. The Convention provides for consultations and cooperation among Parties, or through appropriate international procedures, in solving any problems that may arise in relation to the objective of, or in the application of the provisions of, the Convention. Should a State Party find another Party in breach of the BWC it may lodge a complaint with the UN Security Council, which may initiate an investigation and, in accordance with the UN Charter, may also

consider enacting appropriate enforcement measures, as necessary. There is also nothing that would preclude States Party from raising their compliance concerns bilaterally with another Party or doing so with one or more other countries with shared concerns

A Legally Binding Protocol?

In attempting to address the threats posed by biological weapons, States Parties to the BWC engaged in prolonged negotiations attempting to develop a legally binding document to enhance confidence in compliance with the BWC. After a thorough assessment, however, the United States concluded that the draft Protocol resulting from these negotiations did not meet its mandated objective to strengthen confidence in compliance with the BWC. The United States judged that the draft Protocol would not improve our ability to detect noncompliance, nor would it deter those countries seeking to develop biological weapons. Further, the United States assessed that the draft Protocol would in fact put national security and confidential business information at risk.

The United States has moved past the failed concept and engaged with other States Party in the BWC process to improve global efforts to counter both the BWC threat and the potential impact such weapons could have on civilization. We believe that the output from the 2003-2005 BWC work program sessions has been very productive and that the outcome of the work program is a useful beginning toward national efforts to reduce the threat posed by misuse of biology.

For further information please visit:

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